

**TENNESSEE REAL ESTATE COMMISSION MINUTES**  
**December 5-6, 2007**

The Tennessee Real Estate Commission convened on December 5-6, 2007, at 9:13 a.m., in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. The following **Commission Members were present: Chairman Charles Haynes, Vice Chairman William (Bear) Stephenson, Commissioner Isaac Northern, Commissioner Grover Collins, Commissioner Wendell Alexander, and Commissioner Gary Cunningham. Commissioner Tate and Commissioner Flitcroft were absent. Others Present: Eve Maxwell, Executive Director, Kathryn Wiseman, Staff Attorney, and Kelly McDermott, Administrative Secretary.**

The next order of business was the adoption of the agenda (**Exhibit 1**) for the December 2007 Commission meeting. **Vice-Chairman Stephenson made a motion to adopt the agenda; seconded by Commissioner Alexander; Motion Carried.**

The next order of business was the approval of the minutes from the November meeting (**Exhibit 2**). **Commissioner Alexander made a motion to approve the November 2007 minutes; seconded by Vice-Chairman Stephenson; Motion Carried.**

The Commission met with the Tennessee Real Estate Commission auditors. Auditors present were: Mike Loy, William Stewart, Eddie Sneed, and Donnie Bates. The discussion included supervision of affiliates by principal brokers, changes that will be made to the audit procedures and audit reports, regulating escrow accounts, real estate teams and advertising, training of new affiliate brokers, and pre-inspection notices.

The Commission recessed for lunch at 10:45 p.m. and reconvened at 12:25 p.m.

Chairman Haynes reported on the March 2008 Commission meeting in Gallatin, TN. The meeting will be held March 5 and 6 at the Sumner County Administration Building. The longevity breakfast for licensees with service of 40 or more years in the real estate industry in Middle Tennessee will be held at the Bluegrass Country Club.

**INFORMAL APPLICANT CONFERENCES**

**James Fox, applicant,** appeared before the Commission to be approved for an affiliate broker license. Mr. Fox disclosed convictions for Breaking and Entering and Attempted Breaking & Entering in 1980. **Commissioner Cunningham made a motion to approve; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.**

**LICENSEE/APPLICANT REQUESTS**

**Ann-Marie Thrasher, licensee, 284744,** appeared before the Commission requesting a refund of her reinstatement penalty of \$700.00. She also requested a waiver of the mandatory attendance at the Commission meeting. **Commissioner Alexander made a motion to deny; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.**

**Don Bennett, applicant,** requested a waiver to submit his application after six months from the date of examination. **Commissioner Alexander made a motion to deny; seconded by Vice-Chairman Stephenson; Motion Carried.**

**Larry Wright, licensee**, requested the Commission waive his attendance at a meeting as a condition of reinstatement. The Commission previously denied his request at the June 2007 meeting. Commissioner Northern spoke on Mr. Wright's behalf. **Commissioner Alexander made a motion to deny; seconded by Vice-Chairman Stephenson; opened to discussion; Unanimous Vote; Motion Carried. Commissioner Northern abstained.**

**Kim Poor, applicant, 315731**, requested a waiver of the 50 mile rule. **Commissioner Collins made a motion to approve; Motion failed for lack of second; opened to discussion; Commissioner Northern made a motion to approve; seconded by Commissioner Collins; Vote: 3 Yes, 3 No; Motion failed for lack of majority.**

**Bob Clement, licensee, 210830**, requesting a waiver of the 50 mile rule. **Commissioner Cunningham made a motion to approve; seconded by Commissioner Alexander; Unanimous Vote; Motion Carried.**

**Donald Gibson Catron, applicant**, requested a waiver of the 50 mile rule. **Commissioner Collins a motion to approve; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.**

#### **EDUCATION REPORT, DR. KATHY RIGGS, EDUCATION DIRECTOR**

Dr. Riggs presented courses for Commission evaluation (**Exhibit 3**). **Commissioner Alexander made a motion to approve the course, "Evaluating Residential Construction"; seconded by Commissioner Collins; Unanimous Vote; Motion Carried. Commissioner Alexander made a motion to approve all courses as presented; seconded by Commissioner Northern; Unanimous Vote; Motion Carried.**

Dr. Riggs presented to the Commission a list of pre-licensing instructors and their license status (**Exhibit 4**) with the Tennessee Real Estate Commission. Commissioner Collins would like to have pass/fail rates for each instructor. Dr. Riggs advised the Commission she is working with PSI to refine the statistical data regarding format of pre-licensing course delivery.

Chairman Haynes wants legal counsel present for the Education Report.

**Chukwudinma Nnodu, attendee at the meeting**, requested that his attendance at the next day's meeting be waived. **Commissioner Northern made a motion to approve split attendance at a Commission meeting provided the meeting does not conclude at the end of one day; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.**

**Congressman Bob Clement**, licensee and former Commission member of the Tennessee Real Estate Commission addressed the Commission. Chairman Haynes thanked Mr. Clement for his service to the Tennessee Real Estate Commission.

#### **EXECUTIVE DIRECTOR'S REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR**

Ms. Maxwell presented the following information to the Commission for review:

- **TREC Manuals/Budget** – Ms. Maxwell reported that Lexis Nexis will print and deliver 7,000 law manuals at \$3.99 per manual. A purchase order will be generated and the manuals will be purchased.

- **Complaint Statistics Report (Exhibit 5)** – TREC has a total of **510** open complaints. However, 9 of the 510 open complaints were staff generated Agreed Citations and 14 are complaints against Principal Brokers pursuant to Policy # 07-002 [Errors & Omissions Insurance]. There are 26 new complaints since the November meeting. There are 472 complaints in the legal department and 38 open complaints in the TREC office awaiting response. The total number of closed complaints for the current Fiscal Year 2007-2008 is 105. Total Civil Penalties paid in October were \$13,290.00.

Chairman Haynes advised staff that the March meeting can be held at the Sumner County Administration Building in the Commission Chambers on March 5-6, 2008. The longevity breakfast will be held either March 5 or 6, 2008 at the Bluegrass Country Club in Hendersonville.

### **Commissioner Reports**

Each Commissioner wished the staff and attendees Happy Holidays.

Commissioner Northern reported on the Commission meeting and longevity breakfast that will be held in Memphis on May 1-2, 2007. The meeting will be held at the Shelby County Commission Chambers with the Supreme Court Chambers serving as a back up location. The longevity breakfast will be held at the Holiday Inn University with the Racquet Club as a back up location.

Commissioner Alexander commented on the meeting with the TREC auditors earlier in the day. He was very pleased with the meeting and suggested that Ms. Maxwell make every effort to have the auditors attend the meetings more frequently.

**Steve Majchrzak, Assistant Commissioner, Department of Commerce & Insurance and Mary Moody, Deputy Commissioner, Department of Commerce and Insurance** addressed the Commission regarding the budget of the Education and Recovery Fund. Commissioner Cunningham asked Ms. Moody if it is possible to use the Education and Recovery Fund to allow all Commissioners to attend the ARELLO meetings. Ms. Moody advised the Commission that the money be used to provide education to all licensees. The education received must be used to in turn educate the licensees. The Commission may ask for an opinion from the Attorney General's office. The statute would have to allow the Education and Recovery Fund to fund the ARELLO conferences. The ARELLO conference may be funded by the operating budget for travel. Money may be reallocated to accommodate travel needs. If more than four people travel out of state for a conference, the request must be sent to the Department of Finance and Administration for approval. Ms. Moody suggested a rotation of those attending the conferences to accommodate all Commissioners who wish to attend during the year. Chairman Haynes invited Ms. Moody and Mr. Majchrzak to the Middle Tennessee longevity breakfast in March 2008.

**Commissioner Collins made a motion to offer three hours of continuing education to licensees who attend the TAR conference when the members of the Real Estate Commission speak; seconded by Commissioner Northern; Unanimous Vote; Motion Carried.**

Kathryn addressed the Commission regarding the policy on Reinstatement of Expired Licenses. The Commission reviewed the revised policy and made recommendations for additional changes. Ms. Wiseman proposed that the license not be reinstated until the licensee attends the meeting. This would encourage compliance with the reinstatement policy. Ms. Wiseman reported that 205 licensees were required to attend the meeting and 105 have not attended before their deadline to attend. Chairman Haynes called on attendees for comments regarding the required attendance at the meeting.

The following licensees addressed the Commission regarding their required attendance at the meeting as a condition of reinstatement:

- Chuckwudinma Nnodu
- Mary Mitchell
- Stefan "Chris" Camp
- Gregory Amacher
- Brad Hawkins

There was a discussion regarding alternative penalties for reinstated licensees who do not wish to attend the meeting. Commissioner Northern made an argument for moving the meeting more often to accommodate licensees.

**Commissioner Alexander made a motion that those reinstated licensees who have not attended before 180 days be issued a consent order with a civil penalty of \$1500.00 and if they do not pay the \$1500.00 in 30 days, an additional civil penalty of \$150.00 for each additional month will apply. The licensee may surrender their license or appear for a formal hearing if they do not wish to accept the penalty; seconded by Commissioner Collins; opened to discussion; Commissioner Cunningham made a friendly amendment to the motion to issue a consent order with a civil penalty of \$1500.00 to those reinstated licensees who did not attend within six months or if they wait until renewal to pay the penalty, it increases to a civil penalty of \$2500.00; seconded by Commissioner Collins; opened to discussion; Ms. Wiseman made a recommendation for inclusion and clarification of the motion. She suggested a consent order be issued with a civil penalty of \$1500.00 requiring the penalty be paid within 30 days. If the penalty is not paid within 30 days, a consent order with a civil penalty of \$2500.00 will be issued regardless of the date of expiration; staff recommendation was accepted by Commission and Motion was amended to include staff's recommendation; Amended Motion Passed unanimously; Original Motion Passed unanimously. No waivers may be requested of the Commission regarding this matter.**

Chairman Haynes adjourned the Commission Meeting December 5, 2007 at 3:35 p.m.

### **TENNESSEE REAL ESTATE COMMISSION Thursday, December 6, 2007**

The Tennessee Real Estate Commission reconvened on December 6, 2007, at 9:14 a.m. in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. The following **Commission Members were present: Chairman Charles Haynes, Vice Chairman William (Bear) Stephenson, Commissioner Gary Cunningham, Commissioner Isaac Northern, Commissioner Wendell Alexander, Commissioners**

Grover Collins, Carol Tate, and David Flitcroft were absent. Others Present: Eve Maxwell, Executive Director, Kathryn Wiseman, Staff Attorney, and Kelly McDermott, Administrative Secretary.

**Legal Report, Kathryn Wiseman, Staff Attorney (Exhibit 6)**

- **2006003781** – Commissioner Alexander had previously reviewed the case. He presented the details of the case to the Commission and made a recommendation to issue a consent order to the firm with a civil penalty of \$10,000.00. He also recommended a consent order to the broker with a civil penalty of \$5,000.00 and 16 hours of contract writing continuing education. **Commissioner Cunningham made a motion to accept Commissioner Alexander’s recommendation; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried; Commissioner Alexander abstained.**
- **2006025921** – Commissioner Cunningham made a motion to dismiss; seconded by Commissioner Northern; Unanimous Vote; Motion Carried.
- **2006029941** – Vice-Chairman Stephenson made a motion to have Commissioner Alexander to review the file and defer the complaint until the January meeting; seconded by Commissioner Northern; Unanimous Vote; Motion Carried.
- **2006030561** – Commissioner Alexander made a motion to refer the complaint to the Auctioneer’s Commission; seconded by Commissioner Northern; Unanimous Vote; Motion Carried.
- **2006032481** – Commissioner Northern made a motion to issue a consent order to the principal broker with a civil penalty of \$1000.00; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.
- **2006034161** – Commissioner Alexander made a motion to issue a consent order with a civil penalty of \$1000.00; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.
- **2007081071** – Commissioner Northern made a motion to revoke the license or hold a formal hearing; seconded by Commissioner Alexander for discussion; opened to discussion; Commissioner Northern amended his motion to include that the respondent be allowed to come before the Commission to explain his position and if fails to do so the Commission will move for revocation; amended motion seconded by Commissioner Alexander; opened to discussion; Ms. Wiseman explained the process for revoking a license; Commissioner Northern made a motion to withdraw his original and amended motion; Commissioner Alexander withdrew his original and amended motion; Motion Withdrawn; Vice-Chairman Stephenson made a motion to hold an informal conference with Commissioner Northern; seconded by Commissioner Alexander; Unanimous Vote; Motion Carried.
- **2007071791** – Commissioner Northern made a motion to close and flag for reapplication; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.
- **2006039121** – Commissioner Northern made a motion to close and flag the file for reapplication; Vice-Chairman Stephenson; Motion Carried.
- **2007062811** – Vice-Chairman Stephenson made a motion to close and flag the file for reapplication; seconded by Commissioner Cunningham; opened to discussion; Vice-Chairman Stephenson amended his motion to include referring the complaint to the Contractor’s Board; amended motion seconded by Commissioner Cunningham; Unanimous; Motion as Amended Carried.

- **2006042761 – Vice-Chairman Stephenson made a motion to close and flag the file for reapplication; seconded by Commissioner Alexander; Unanimous Vote; Motion Carried.**
- **2007057541 – Commissioner Northern made a motion to allow the respondent to place the license in inactive status; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.**
- **2007059341 – Commissioner Cunningham has previously reviewed the case and made a recommendation to reduce the penalty of \$1000.00 from the original consent order to \$500.00 or less; Vice-Chairman Stephenson made a motion to reduce the penalty of \$1000.00 from the original consent order to \$250.00; seconded by Commissioner Northern; Unanimous Vote; Motion Carried.**
- **2006037041 – Commissioner Northern made a motion to refer the case to the Department of Housing and Urban Development, Division of Fair Housing and Equal Opportunity and send a letter of warning; seconded by Commissioner Alexander; Unanimous Vote; Motion Carried.**

Commissioner Alexander asked the legal department to open two complaints as a result of a recent audit.

Commissioner Northern left the meeting at 10:10 a.m. Chairman Haynes adjourned the meeting at 10:10 a.m. since there was no longer a quorum.

### **Comments from Attendees**

Chairman Haynes called for comments from the attendees.

Licensees who attended the Commission meeting in order to obtain continuing education credits appeared before the Commission and gave statements regarding what they had learned from the meeting.